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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,487	09/01/2006	Mathias Buchel	2004P01388	1911
24131	7590	04/03/2008	EXAMINER	
LERNER GREENBERG STEMER LLP			BARBEE, MANUEL L	
P O BOX 2480				
HOLLYWOOD, FL 33022-2480			ART UNIT	PAPER NUMBER
			2857	
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			04/03/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/591,487	BUCHEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	MANUEL L. BARBEE	2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 January 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 8-18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 12,13,17 and 18 is/are allowed.

6) Claim(s) 8-11,14 and 15 is/are rejected.

7) Claim(s) 16 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 8-10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,476,516 to Reich (Reich).

As per claim 8:

With regard to detecting a force acting on a seating area and determining an estimated value of a variable that is characteristic of the mass resting on the seating area in dependence on the force action on the seating area, Reich teaches measuring the estimated weight of a seat occupant (col. 1, line 53 - col. 2, line 6. With regard to defining the estimated value as being reliable or unreliable based on an oscillation behavior of the measurement signal, Reich teaches locking the occupant into a weight class when a predetermined number of samples are achieved and unlocking the weight class a predetermined number of inconsistent samples are observed (col. 2, lines 7-14).

As per claim 9:

With regard to determining the estimated value to be reliable or unreliable depending on a measure of an amplitude of the oscillations of the force sensor,

Reich teaches determining whether to lock an occupant into a weight class based on the weight measurements (col. 2, lines 7-29).

As per claim 10:

With regard to depending on a time duration of a predetermined change in the measure of the amplitude, Reich teaches measuring weight values over a period of time to determine whether to lock or unlock an occupant in a weight class (col. 2, lines 7-29; col. 3, lines 47-49).

As per claim 14:

With regard to detecting a force acting on a seating area and determining an estimated value of a variable that is characteristic of the mass resting on the seating area in dependence on the force action on the seating area, Reich teaches measuring the estimated weight of a seat occupant (col. 1, line 53 - col. 2, line 6. With regard to defining the estimated value as being reliable or unreliable based on an oscillation behavior of the measurement signal, Reich teaches locking the occupant into a weight class when a predetermined number of samples are achieved and unlocking the weight class a predetermined number of inconsistent samples are observed (col. 2, lines 7-14).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reich in view of Japanese patent publication JP 404005538 A to Gan et al. (Gan).

As per claim 11:

Reich teaches all the limitations of claim 8 upon which claim 11 depends. Reich does not teach subjecting the measurement signal to a Walsh transformation and determining reliability based on the sequential content of the Walsh-transformed measurement signal. Gan teaches Walsh transforming a signal to detect a change in state (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the weight measurement, as taught by Reich, to include a Walsh transform of the measured signal, as taught by Gan, because then state changes would have been speedily and accurately detected (Gan, Abstract).

As per claim 15:

Reich teaches all the limitations of claim 14 upon which claim 15 depends. Reich does not teach subjecting the measurement signal to a Walsh transformation and determining reliability based on the sequential content of the Walsh-transformed measurement signal. Gan teaches Walsh transforming a signal to detect a change in state (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the weight measurement, as taught by Reich, to include a Walsh transform of the measured signal, as taught

by Gan, because then state changes would have been speedily and accurately detected (Gan, Abstract).

***Allowable Subject Matter***

5. Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 12, 13, 17 and 18 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter: The primary reason for indicating the allowance of claims 12, 13, 17 and 18 is the inclusion of limitations for a method for determining a variable that is a characteristic of a mass resting on a seating area of a seat that includes a step for forming the measure of the sequential content by adding amplitudes of predetermined sequences of the Walsh-transformed measurement signal.

***Response to Arguments***

8. Applicant's arguments filed 18 January 2008 have been fully considered but they are not persuasive. Applicant states that Reich does not teach defining the weight signal as being reliable or unreliable depending on oscillation behavior. However, Reich teaches locking the occupant into a weight class when a predetermined number of samples are achieved and unlocking the weight class a predetermined number of inconsistent samples are observed (col. 2, lines 7-14). Locking and unlocking the weight class is effectively a determination of whether the weight class is reliable or

unreliable. Changes in the samples or inconsistent samples corresponds to oscillation behavior.

With regard to the rejection of claim 11, Applicant states that the teachings in the cited references considered as a whole do not suggest the desirability and thus the obviousness of making any combination that would result in the invention defined by claim 11 and added claim 15. Applicant concludes that the Examiner viewed the references with the benefit of impermissible hindsight. Applicant states that the Examiner's stated reason for modifying Reich to include a Walsh transform is contrary to the teachings of Reich that state changes should be filtered out. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the weight measurement, as taught by Reich, to include a Walsh transform of the measured signal, as taught by Gan, because then state changes would have been speedily and accurately detected (Gan, Abstract). While Reich may teach filtering out erroneous class changes, this teaching is not contrary to detecting real state changes speedily and accurately.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MANUEL L. BARBEE whose telephone number is (571)272-2212. The examiner can normally be reached on Monday-Friday from 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on 571-272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Manuel L. Barbee/  
Examiner, Art Unit 2857

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mlb  
October 13, 2007